BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of		
Application by Verizon New England Inc., Verizon Delaware Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in New Hampshire and Delaware	)	WC Docket No. 02-157

SUPPLEMENTAL DECLARATION OF RICHARD J. WALSH
ON BEHALF OF AT&T CORP.

1. My name Richard J. Walsh. My business address is 33 Francis Drive, Hillsborough, NJ, 08844. I am Senior Telecommunications Analysis and founder/CEO of Richard J. Walsh & Associates, Inc. I am the same Richard J. Walsh who sponsored a declaration in support of AT&T's July 17 comments.

2. The purpose of this supplemental declaration is to respond to the request of the Commission's staff for a further demonstration of how the Verizon loop and non-recurring charge cost studies allow double recovery of the costs of field installations, a point I raised in paragraphs 50-62 of my July 17 Declaration for AT&T. This supplemental declaration is divided into three sections. In Section A, I identify the specific installation-related activities whose costs are recoverable through both recurring and nonrecurring charges in Delaware. In Section B, I explain why those costs should be treated as recurring only. And in Section C, I discuss two recent decisions reaching this conclusion in UNE cases involving Verizon in other states.

3. Both the Delaware and New Hampshire non-recurring cost models represent costs associated with the one-time activities necessary to process and provision CLECs' requests for the initiation, change or disconnection (termination) of UNEs and various services provided by Verizon to CLECs. Although I cite below to the record and state commission decision in the recent Massachusetts UNE proceeding involving Verizon, the models and methodology presented by Verizon in Massachusetts and Delaware are virtually the same.

4. In both states (as well as New Hampshire), Verizon's non-recurring cost study treated the work activities performed in building and maintaining a network (i.e., field installation) as non-recurring costs. This methodology is fundamentally incorrect. As this Commission stated in its 1996 *Local Competition Order* (at ¶ 690), "The increment that forms the basis for a TELRIC study shall be the entire quantity of the network element provided. As we have previously stated, all costs associated with the providing the element shall be included in the incremental cost." Thus, the recurring network element rates should include all of the field installation cost, which is necessary to make the entire quantity of Loops within Verizon's network functional. Whether or not the work is performed before the actual CLEC's request is not at issue; the field installation activities are recurring cost activities in any event.

A. The Rates Approved By The Delaware PSC Allow Verizon To Recover The Recurring Costs of Field Installations Through Both Recurring And Nonrecurring Charges.

5. The field installation activities at issue relate to work between the NID and the central office to make the UNE-Loop functional, such as connecting the feeder cables to the distribution cables (e.g., the field cross-connect at the Feeder Distribution Interface). In addition, the costs of field installation activities also include a percentage of labor

involved to update the Verizon inventory records reflected in its OSS, e.g., by correcting the relationship of available facilities to service locations.[1] Comparing the field installation work activity descriptions used in the New Hampshire and Delaware non-recurring cost models, the activities are virtually the same. The New Hampshire non-recurring cost model describes the field installation activities as: "they begin with notification via service order to connect "NEW" UNE-loop, which includes travel time, rectifying troubles and record changes if necessary, plugging in a channel unit at the Remote Terminal, and placing cross-wiring at the Serving Area Interface (SAI) point. Function ends with CLEC dial tone present at demark."[2] In Delaware, Verizon modified its presentation to include individual tasks, but the overall results remained the same.[3]

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[1] Service addresses and the relationship to the network that feeds them are assets to Verizon. If the OSS incorrectly manages these assets, service will not work as assigned and technicians will need to be dispatched to resolve errors and to provide updated information to Verizon's OSS.

[2] Original VZ-NH NRCM documentation provided on CD ROM with this 271 filing "New Hampshire\Appendix M-New Hampshire\Electronic Material Filed with Tab_0014\NH Work Papers\SGAT COMPLIANCE FILING \Nonrecurring \Combined \NHNREX13, Field Installation, #15111 Installation (NEW), Item Description: Establish single "NEW" Link at end user's premises.

[3] *See* Verizon New England and Verizon Delaware 271 Application, App. K (Delaware PSC Docket No. 96-324 Phase II Compliance Rates Cost Studies 05/09/02, Non-Recurring Cost Models). Field installation tasks for the "2 Wire New Initial" are represented as follows: Task #1; Obtain Dispatch Info via CAT. Task #2; Travel from garage or previous job. Task #3; Gain Access to Prem and demarcation point / NID. Task #4; Locate terminal and/or cross-connect box feeding premises. Task #6; Contact MLAC, if necessary, for new pair assignment. Task #7; Work with Frame, and / or RCCC if necessary, for new pair assignment. Task #8; Place intermediate field X-Conn and NI (SI). Task# 13; Verify that TC dial tone is present on assigned facility. Task #16; Designate (tag) circuit for subsequent identification at demarcation point. (NID, Term, SNI). Task #19; Provide demarc info / location / circuit info not in the company's operating systems. Task #20; Field Tech enters completion into WFA.

6. The Delaware PSC allowed Verizon to charge field installation NRCs when Verizon determines existing facility paths are not established between the NID and the central office MDF. Verizon included these field installation activities in its VZ-DE NRCM cost study on the ground that on its existing network such field activities are *sometimes* necessary to fulfill a CLEC's request. Verizon then imposes a nonrecurring charge for field installation whenever Verizon chooses to dispatch a technician to complete the CLEC's request.

7. First, Verizon charges a non-recurring field installation cost of $ 100.79 for a basic loop.[4] The proposed charge is for activities related to making the loop element functional (i.e., establishing an electrical path or circuit between the NID and the Central Office). In large part the activities entail making or re-arranging the cross-connections between feeder and distribution plant at a feeder/distribution interface, if necessary, when a request for service is received.[5]

8. Verizon also recovers costs for maintenance related tasks through its NRCs. For example, Task 10 in the RCCC task list for a two wire loop covers tasks supposedly needed to "remove any facility roadblock or problem." More than 22 minutes are allocated to complete that task.[6] In the Massachusetts UNE case, Verizon's NRC panel acknowledged that if removing the problem requires a field dispatch, a field dispatch NRC also will be charged to the CLEC.[7]

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[4] MA UNE Ex. VZ-21, Revised NRC Cost Summary, Line 1, Column F.

[5] MA UNE Ex. VZ-20, Revised NRC Ex. G, Field Installation Activity Description, line 8.

[6] MA UNE Ex. VZ-20, Revised NRC MA UNE Ex. G, RCCC Activity Description, line 10.

[7] MA UNE Tr. 684, 1/17/01 (Peduto).

9. These categories of costs are already recovered in Verizon's recurring rates, through its Annual Cost Factors ("ACFs"). Verizon has acknowledged that its various ACFs are intended to recover the "operations costs … that can be ascribed to purchasing and operating a UNE investment."[8] In particular, Verizon's Network ACF permits Verizon to recover through its recurring UNE charges the same categories of costs that Verizon also is trying to assess as non-recurring charges.

10. Verizon's Network ACF covers, among other things, "repair expenses, rearrangement expenses, [and] testing expenses."[9] Thus, this factor is specifically designed to capture the costs of "moves and rearrangements" (the "M" subfactor) and repairs (the "R" subfactor).[10] Verizon takes its 1999 ARMIS expense in specified accounts and develops a factor that it applies to plant investment in order to create an associated expense level which is part of the recurring rate.[11] Review of the ARMIS accounts used in the development of these factors reveals that over $85,000,000 in expenses associated with moves and rearrangements of aerial cable (ARMIS account 6421.1) is included in the development of the "M" subfactor, as well as over $95,000,000 in expense for repair of such loop facilities in the "R" subfactor.[12] More generally, these subfactors cover costs associated with moving wires, other rearrangements of plant, and

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8 MA UNE Ex. VZ-36, Verizon Recurring Cost Panel Direct at 37.

9 MA UNE Ex. VZ-36, Verizon Recurring Cost Panel Direct, at 42.

10 MA UNE Ex. VZ-37, Verizon Recurring Cost Study, Part G-5, "Overview of Factor Methodology" and Tab "1.NtwkFctr."

11 MA UNE Ex. VZ-37, Verizon Recurring Cost Study, Part G-5, "Overview of Factor Methodology".

12 MA UNE Ex. VZ-37, Verizon Recurring Cost Study, Part G-5, Tab 6."M", line 10, and Tab 7."R", line 10.

repairs for all categories of Verizon's switching, circuit, and outside plant equipment.[13] As I testified in Massachusetts, "[r]earrangements fall under the maintenance category of the recurring expense. And so those dollars are recovered, or should be recovered, in the recurring rate for those elements."[14]

11. The Network ACF also encompasses "Other" subfactors, which among other things recoup tens of millions of dollars of expenses in the 6534 ARMIS account for activities allocated to the central office ("CO") or to outside plant ("OSP").[15] This account encompasses expenses for "supervising plant operations" as well as "planning, coordinating and monitoring plant operations."[16] These categories of expenses encompass, therefore, the coordination and related expenses that Verizon seeks to impose anew through NRCs.

12. Furthermore, Verizon acknowledges that portions of the network expenses used in the recurring rate calculation are also being recovered through NRCs.[17] Mr. Peduto testified that defective loop plant generating a field installation NRC is resolved by loop rearrangements.[18] Rearrangements are covered by the "M" factor in the recurring rates, but Verizon also seeks to impose a field installation NRC when such rearrangements occur in the process of provisioning a CLEC loop. The MLAC and

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13 MA UNE Ex. VZ-37, Verizon Recurring Cost Study, Part G-5, Tab 5.M&RExp., Tab 6."M", and Tab 7."R".

14 MA UNE Tr. 816. 1/18/02 (Walsh).

15 MA UNE Ex. VZ-37, Verizon Recurring Cost Study, Part G-5, Tab 9.

16 47 C.F.R. § 32.6534.

17 MA UNE Ex. VZ-36, Verizon Recurring Cost Panel Direct at 43.

18 MA UNE Tr. 687-88, 1/17/02 (Peduto).

RCCC are also involved in such loop rearrangements.[19] The costs for these activities are therefore included in both the "M" factor and the provisioning and CO wiring NRCs.

B. Verizon Should Recover These Costs Only Through Recurring Charges.

13. Allowing Verizon to recover the same dollars of field installation and provisioning expenses as both recurring and nonrecurring charges is an obvious violation of the Commission's pricing rules. The Commission has stated that nonrecurring changes must be set so as to prevent "an incumbent LEC [from] recover[ing] more than the total forward looking economic cost of providing the applicable element."[20] The question then is whether the field installation and provisioning expenses should be excluded from recurring charges or nonrecurring charges. The answer is the latter.

14. As explained in my July 17 declaration, the loop element as typically and appropriately analyzed in UNE recurring cost analysis, represents a complete transmission facility between the NID and the Central Office. Hence, it includes all features, functions, capabilities and connections of such a transmission facility. The forward-looking economic recurring cost of the local loop, reflected by the recurring monthly rate for the use of that loop, includes all of the costs associated with the construction and maintenance of the network including the necessary cross-connections to complete the transmission path. In other words, the UNE loop recurring cost is the cost associated with building and maintaining the transmission facility and is not the cost of laying feeder cable somewhere near distribution cable (to be connected at some later

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[19] MA UNE Tr. 687-88, 1/17/02 (Peduto) and MA UNE Tr. 535, 1/16/02 (Peduto).

[20] 47 C.F.R. § 51.507(e); *see also Local Competition Order*, ¶ 750 (incumbent LECs cannot "recover nonrecurring costs twice.")

date). Thus, it must necessarily include the cost of this field cross-connect. Without the cross-connect, the loop will not work. Accordingly, the field installation costs are part of the recurring costs of the loop.

15. This Commission set forth the "General Rate Structure Rules" that should be followed when determining the allocation of cost and concluded "as a general rule, that incumbent LECs' rates for interconnection and unbundled elements must recover costs in a manner that reflects the way they are incurred." *Local Competition Order* ¶ 743. Applying this rule to recurring costs means that "recurring costs must be recovered through recurring charges, rather than through a nonrecurring charge." *Local Competition Order* ¶ 745.

16. It is no answer that the field installation activity—and the associated cash outflow that pays for the activity—may occur only once, when the loop goes into service. By that logic, the vast majority of a local carrier's costs would be "nonrecurring." Acquiring equipment for switching, inter-office transport, and other elements, and engineering, furnishing, and installing the equipment into service, often entail an initial cash outflow, not a series of smaller outflows over the economic life of the equipment.[21] Yet no one seriously disputes that these costs are recurring, not nonrecurring.

17. Verizon's rejoinder that the costs of field installation activities are nonetheless appropriately recovered (or, more precisely, double recovered) through separate NRCs because those costs are "incurred in response to a specific event initiated by a specific cost-causer and [that] generally involve easily identifiable, concrete costs" is likewise wide of the mark. Verizon tags the CLEC's service order request as the specific event

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[21] MA UNE Ex. ATT-VZ 6-1.

that "causes" the field installation costs to occur. But the continual need to increase, rearrange and maintain network facilities in response to increases in demand, maintenance problems and customer moves arises regardless whether consumers are served by the ILEC or a CLEC, so the CLEC is *not* in any meaningful sense the cost causer.

18. The relevant economic test is not whether the initial cash outflow is nonrecurring, or the request for field activity associated with the activation of a particular loop is nonrecurring, but whether the *benefits* of the facilities thereby placed in service are nonrecurring. Costs associated with activities to produce facilities that can be reused to provide service to subsequent customers without change are "caused" by all of anticipated use of the facilities over their anticipated life, not just the initial user. Only those costs which benefit only the ordering CLEC, with no benefit to a successor carrier serving the same retail customer location, should be included in NRCs.[22] This should be the standard for determining whether a cost can be recovered through an NRC, not whether the cost is incurred only once.

19. A moment's thought should make clear that the field installation activities continue to generate benefits even after the succession of one CLEC by another CLEC or Verizon itself. For example, the "Place intermediate field X-Conn. and NI(SI)", "Place plug-in if required/work at remote terminal", "Place block and/or drop wire from serving terminal to Network Interface Device (NID)", and "Place Network Interface Device (NID) at premise where one does not already exist" tasks are clear examples of work activities that benefit Verizon's network and subsequent users of the network.[23] These

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22 MA UNE Ex. ATT-13, Walsh Direct at 12.

23 MA UNE Ex. ATT-14, Walsh Rebuttal at 39.

activities are part of building a loop element and so are properly recovered in the recurring rate for that loop, not an in onerous one-time, up-front charge.[24]

20. Moreover, as a normal practice ILECs generally make every effort to leave this field cross-connection in-place when the customer disconnects their service. In fact, Verizon's DE-NRCM demonstrated this fact, showing the complete absence of any field installation cost when a UNE-Loop is disconnected. Thus, any cross-connect made at the time of a CLEC's UNE request will remain in place well after the customer switches to another carrier, such as Verizon. Verizon itself has admitted that an intermediate cross-connection at a feeder distribution interface or serving area interface stays connected in the normal situation even after service is discontinued and so benefits subsequent entities seeking a loop provided through the same interface.[25] Each of the field installation activities included in Verizon's model is needed to make a new connection between the network and the CLEC customer, making the ordered UNE functional, or to deal with a network related problem, both of which improve the network and benefit subsequent users.[26] Thus, such costs should be shared with those other network users as part of a recurring rate.

21. Proper identification of one-time costs that provide the ordering CLEC, and *only* the ordering CLEC with a benefit, and so should be recovered through nonrecurring rates, is particularly important in a competitive environment where more than one local exchange carrier (including the incumbent) may use a particular facility at different

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24 MA UNE MA UNE Tr. 815, 1/18/02 (Walsh).

25 MA UNE MA UNE Tr. 540, 1/16/02 (Peduto).

26 MA UNE Ex. ATT-14, Walsh Rebuttal at 39-40.

points in that facility's economic life. If the first telecommunications provider to use the facility bears all the forward-looking costs of a one-time activity benefiting multiple users, then obviously the first user will be forced to pay more than its fair share.[27] The FCC, recognizing this problem, has expressly authorized the recovery through recurring rates of costs that are incurred only once.[28]

22. This inappropriate condition allowing Verizon to collect field installation NRC's arbitrarily, becomes even more exaggerated when existing retail customers who may be provisioned on existing IDLC facilities require a field dispatch to migrate services to a UNE-Loop. The CLEC may not know, nor will the end user customer know at time of service order creation that additional cost will result upon completion of the migration request.

23. For these reasons, imposing "field installation" costs on CLECs based on the fortuity that a cross-connect is required to make the particular UNEs they order operational also constitutes undue discrimination against the CLECs. Indeed, the field installation NRC *facilitates* anticompetitive discrimination. Verizon controls the assignment of facilities necessary to meet service demands. If multiple facilities are available at particular service address, there is nothing preventing Verizon from assigning facilities that require Field Dispatch, and recovering costs through non-recurring rates, even though connected facilities may already exist. Clearly CLECs are at Verizon's mercy.

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[27] MA UNE Ex. ATT-14, Walsh Rebuttal at 37-38; MA UNE Ex. ATT-15, Walsh Surrebuttal at 4-5; *Local Competition Order*, ¶ 750.

[28] *Local Competition Order*, ¶ 749; 47 C.F.R. § 51.507(e).

C. State Decisions

24. In two recent decisions, state regulators have agreed that field installation activities modeled in Verizon's NRCM are appropriately recurring cost activities and such should be recovered through recurring rates. In Massachusetts, the DTE found:

> A cross-connect at the FDI is installed by Verizon in order to fulfill CLEC orders and may be left in place after a CLEC discontinues service or may be moved if needed to serve another customer (Tr. 3, at 540). Thus, the field installation costs that Verizon incurs to fulfill a CLEC order may benefit a CLEC exclusively or may benefit future customers, including Verizon, if Verizon becomes the carrier serving the retail end user when a CLEC discontinues service. When end users migrate back to Verizon from a CLEC, Verizon benefits directly from tasks associated with making loops functional (Exh. VZ-14, at 14; *see also* Tr. 3, at 540-541).
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> If, in fulfilling a wholesale order, Verizon must remedy defective outside plant, it proposes to recover the cost of such activities from the CLEC because the CLEC's order is the "triggering" event (Tr. 4, at 679). In the retail environment, Verizon computes service order installation costs based on an estimate of the percentage that would require a field dispatch, and does not impose the cost on the particular customer who happened to "trigger" the need for loop work (*id.* at 680-681). If Verizon must fix defective outside plant in fulfilling a retail order, it recovers such costs through its retail charges (*id.* at 679-681). Verizon's witness stated that, "It's my understanding that the cost of a dispatch, if you will, in general for a retail customer is recovered across all orders, whether a dispatch occurs or not" (*id.* at 680).
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> Verizon, in some instances, such as when the cross-connection between the feeder cable and the distribution cable remains in place after a CLEC discontinues service, will avoid incurring field installation and loop maintenance work as a direct result of having conducted such work to fulfill a CLEC order in the past (Tr. 3, at 539-541). Should Verizon then directly serve the same end-user through its own retail offering, it will benefit from avoiding these costs. An equitable cost recovery therefore should not shift the field dispatch cost to the CLEC as an NRC. In those instances where the field installation tasks are necessary to fulfill a CLEC order, Verizon's proposed NRCM would *always* impose these field installation costs on the CLECs as NRCs.[29]

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[29] Massachusetts Department of Telecommunications and Energy, DTE 01-20, *Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and*

25. The DTE therefore concluded:

> Verizon's proposal to recover these costs in a nonrecurring manner unfairly penalizes the CLEC, which, by circumstances that it cannot control, happens to be the carrier that requests a UNE where field dispatch occurs. A more equitable way to compute the costs of field dispatch and to minimize the barrier to entry is for Verizon to recover these costs through its ACF.
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> Verizon also inappropriately includes loop maintenance costs in its NRCM. The FCC stated that, "we determine that maintenance expenses relating to the local loop must be recovered through the recurring loop charge, rather than through a nonrecurring charge imposed upon the entrant." *Local Competition Order* at ¶ 745. Accordingly, Verizon should recover loop maintenance costs through its ACF. Verizon contends that there are certain maintenance activities that it would not incur except when necessary to fulfill specific orders. As with field dispatch costs, by increasing the NRC, the inappropriate recovery of loop maintenance costs creates an unnecessary barrier to entry. Furthermore, the recovery of such costs from the CLEC that happens to have ordered UNEs where loop maintenance activity is required unfairly penalizes the CLEC because the CLEC cannot control whether Verizon's network requires maintenance.

26. Likewise, a Pennsylvania Public Utility Commission ALJ found Verizon's NRC pricing methodology to be incorrect, and therefore rejected Verizon's NRCM:

> AT&T/WCOM also challenge Verizon's proposal to impose a non-recurring charge for the physical cross-connection of a loop's feeder and distribution plant at the feeder distribution interface ("FDI"). They argue that this cost should be recovered in recurring rates because the connection need only be made once; it can be reused for subsequent customers at the same location. They contend that this connection is part of the overall loop, the cost of which already includes construction and maintenance, including placement of the cross-connect at the FDI. (AT&T/WCOM Main Brief at 182-184). Verizon responds that its proposal is consistent with an FCC ruling:
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> > "To the extent that the equipment needed for expanded interconnection service is dedicated to a particular

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the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts. (decision issued July 11, 2002) at 420-23.

> interconnector, . . . requiring the interconnector to pay the full cost of the equipment up front is reasonable . . . *regardless of whether the equipment might be reusable*.[30]"

Curiously, Verizon omits from its quote the very next sentence in the FCC's commentary:

> To the extent that the equipment needed to provide expanded interconnection service is reusable, we believe that the pro rata refund requirement that we set forth in Section II.B.6 below properly compensates interconnectors for the assets for which they have already paid fully, but that the LEC can use to provide service to another company after the interconnector disconnects.
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> *Second Report and Order, Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd 18730, 18750 ¶ 33 (June 13, 1997).

One might infer that Verizon truncates the quote where it does because Verizon has not proposed any refund mechanism here, as required by the FCC. (AT&T/WCOM Main Brief at 98). I recommend that Verizon be required to either treat these charges as recurring instead of non-recurring, or propose a refund mechanism as required by the FCC.

27. The same result is warranted in this case.

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[30] Second Report and Order, *Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd 18730, 18750 ¶ 33 (June 13, 1997) (emphasis added); *see also Local Competition Order* ¶ 751.

VERIFICATION PAGE

I declare under penalty of perjury that the foregoing Declaration is true and correct.

/s/ Richard J. Walsh
Richard J. Walsh

Executed on: August 6, 2002